STATE OF NEW YORK

4486--A

2017-2018 Regular Sessions

IN SENATE

February 15, 2017

Introduced by Sens. MONTGOMERY, KENNEDY, LATIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to requiring school districts to purchase food products that are grown, produced, harvested or processed in New York state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 9 of section 103 of the general municipal law, as amended by chapter 269 of the laws of 2004, paragraph (a) as amended by chapter 62 of the laws of 2016, and subparagraph (ii) of paragraph (a) as amended by section 39 of part YYY of chapter 59 of the laws of 2017, is amended to read as follows:

9. Notwithstanding the foregoing provisions of this section to the contrary, a board of education [~~may~~] **shall**, on behalf of its school district, [~~separately purchase eggs, livestock, fish, dairy products (excluding milk), juice, grains, and species of fresh fruit and vegetables directly from New York State producers or growers, or associations of producers and growers~~] **require that essential components of all food products purchased are grown, produced or harvested in New York state or that any processing of such food products take place in facilities located within New York state**, provided that:

(a) (i) [~~such~~] **a board of education may only purchase food products from an** association of producers or growers **that produces or grows eggs, livestock, fish, dairy products (excluding milk), juice, grains, and species of fresh fruit and vegetables,** is comprised of ten or fewer owners of farms who also operate such farms and who have combined to fill the order of a school district as herein authorized, provided however, that a school district may apply to the commissioner of education for permission to purchase from an association of more than ten owners of such farms when no other producers or growers have offered to sell to such school; or

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(ii) [~~such~~] **a board of education may only purchase food products from an** association of producers or growers **that produces or grows eggs, livestock, fish, dairy products (excluding milk), juice, grains, and species of fresh fruit and vegetables,** is comprised of owners of farms who also operate such farms and have combined to fill the order of a school district, and where such order is for fifty thousand dollars or less as herein authorized, provided however, that a school district may apply to the commissioner of education for permission to purchase orders of more than fifty thousand dollars from an association of owners of such farms when no other producers or growers have offered to sell to such school;

(b) [~~the amount that may be expended by a school district in any fiscal year for such purchases shall not exceed an amount equal to twenty cents multiplied by the total number of days in the school year multiplied by the total enrollment of such school district;~~

~~(c)~~] **upon determination by a board of education that the cost of such food products is not reasonably competitive, the specifications requiring such purchase shall be waived for that specific food product until the next contract for such food product is let out for bid. For purposes of this subdivision "reasonably competitive" shall mean that the cost of the New York state grown, produced, harvested or processed food product does not exceed a cost premium of ten percent above the cost of a comparable product that is not grown, produced, harvested or processed in New York state.**

(c) upon determination by a board of education that such food products are not available in sufficient quantity for purchasing, the specifications requiring such purchase shall be waived for that specific food product until the next contract for such food product is let out for bid.

(d) all such purchases shall be administered pursuant to regulations promulgated by the commissioner of education. Such regulations shall: be developed in consultation with the commissioner of agriculture and markets to accommodate and promote the provisions of the farm-to-school program established pursuant to subdivision five-b of [~~the~~] section sixteen of the agriculture and markets law and subdivision thirty-one of section three hundred five of the education law as added by chapter two of the laws of two thousand [~~two~~] **one**; ensure that the prices paid by a district for any items so purchased do not exceed the prices of comparable local farm products that are available to districts through their usual purchases of such items; ensure that all producers and growers who desire to sell to school districts can readily access information in accordance with the farm-to-school law; include provisions for situations when more than one producer or grower seeks to sell the same product to a district to ensure that all such producers or growers have an equitable opportunity to do so in a manner similar to the usual purchasing practices of such districts; develop guidelines for approval of purchases of items from associations of more than ten growers and producers; and, to the maximum extent practicable, minimize additional paperwork, recordkeeping and other similar requirements on both growers and producers and school districts.

§ 2. This act shall take effect immediately and shall apply to the academic school year commencing on or after July 1, 2017; provided that, effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.